

Hon. Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ESTHER HOFFMAN; SARAH DOUGLASS,
ANTHONY KIM; and IL KIM, and DARIA
KIM, on behalf of themselves and on behalf of
others similarly situated,

Plaintiffs,

v.

TRANSWORLD SYSTEMS
INCORPORATED; PATENAUDE AND
FELIX, A.P.C.; MATTHEW CHEUNG, and the
marital community comprised of MATTHEW
CHEUNG and JANE DOE CHEUNG;
National Collegiate Student Loan Trust 2003-1,
National Collegiate Student Loan Trust 2004-1,
National Collegiate Student Loan Trust 2004-2,
National Collegiate Student Loan Trust 2005-1,
National Collegiate Student Loan Trust 2005-2,
National Collegiate Student Loan Trust 2005-3,
National Collegiate Student Loan Trust 2006-1,
National Collegiate Student Loan Trust 2006-2,
National Collegiate Student Loan Trust 2006-3,
National Collegiate Student Loan Trust 2006-4,
National Collegiate Student Loan Trust 2007-1,
National Collegiate Student Loan Trust 2007-2,
National Collegiate Student Loan Trust 2007-3,
National Collegiate Student Loan Trust 2007-4,
National Collegiate Master Student Loan Trust,
and DOES ONE THROUGH TEN,

Defendants.

NO. 2:18-cv-1132-TSZ

NATIONAL COLLEGIATE STUDENT
LOAN TRUST DEFENDANTS'
MOTION TO EXTEND DEADLINE TO
RESPOND TO COMPLAINT

Noted Date: September 25, 2020

NATIONAL COLLEGIATE STUDENT LOAN TRUST
DEFENDANTS' MOTION TO EXTEND DEADLINE TO
RESPOND TO COMPLAINT [2:18-cv-1132-TSZ] - 1

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I. REQUEST OF RELIEF

Defendants National Collegiate Student Loan Trust 2003-1, National Collegiate Student Loan Trust 2004-1, National Collegiate Student Loan Trust 2004-2, National Collegiate Student Loan Trust 2005-1, National Collegiate Student Loan Trust 2005-2, National Collegiate Student Loan Trust 2005-3, National Collegiate Student Loan Trust 2006-1, National Collegiate Student Loan Trust 2006-2, National Collegiate Student Loan Trust 2006-3, National Collegiate Student Loan Trust 2006-4, National Collegiate Student Loan Trust 2007-1, National Collegiate Student Loan Trust 2007-2, National Collegiate Student Loan Trust 2007-3, National Collegiate Student Loan Trust 2007-4 and National Collegiate Master Student Loan Trust I (collectively referred to as the “NCSLT entities”) move this Court for an order extending the deadline for the NCSLT entities to file an Answer or otherwise plead in response to the Second Amended Complaint. On September 11, 2020, three defendants moved to strike portions of the Plaintiffs’ Second Amended Complaint that specifically address the NCSLT entities. See Dkt. No. 76. Because the outcome of that motion may moot the Second Amended Complaint or alter the material allegations and issues in dispute, the NCSLT entities request that their deadline to respond to the Second Amended Complaint be extended until after the Court has ruled on the pending motion to strike. The NCSLT entities propose that they be permitted to file an answer or otherwise plead in response to the Second Amended Complaint fourteen (14) days after notice of the Court’s action on the pending motion to strike.

II. STATEMENT OF FACTS

On July 7, 2020, Plaintiffs filed a Second Amended Complaint in which they added the NCSLT entities as named defendants. See Dkt. No. 61.

NATIONAL COLLEGIATE STUDENT LOAN TRUST
DEFENDANTS’ MOTION TO EXTEND DEADLINE TO
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1 By order dated August 21, 2020, the Court extended until September 14, 2020, the deadline
2 for Defendants to answer or otherwise plead in response to the Second Amended Complaint. See
3 Dkt. No. 74.

4 On September 11, 2020, Defendants Transworld Systems Inc., Patenaude & Felix, A.P.C.,
5 and Matthew Cheung moved to strike portions of Plaintiffs' Second Amended Complaint. See
6 Dkt. No. 76.

7 **III. STATEMENT OF ISSUES**

8 Whether pursuant to Fed. R. Civ. P. 6(b) and 12, this Court should extend the deadline for
9 the NCSLT entities to answer or otherwise plead in response to the Second Amended Complaint?

10 **IV. ARGUMENT AND AUTHORITY**

11 Under Fed. R. Civ. P. 6(b)(1)(A), the Court may, for good cause, extend the time an act
12 may or must be done. "Rule 6(b) commits to the district court's discretion the decision to enlarge
13 the time in which a party must perform an act required or allowed by the Federal Rules of Civil
14 Procedure...." *Jenkins v. Commonwealth Land Title Ins. Co.*, 95 F.3d 791, 795, 1996 U.S. App.
15 LEXIS 23229 (9th Cir. 1996).

16 Serving a motion to strike alters the deadline to file responsive pleadings. Pursuant to Fed.
17 R. Civ. P. 12(a)(4)(A), if the Court denies the motion or postpones its disposition until trial,
18 responsive pleadings must be served within 14 days after notice of the court's action, unless the
19 Court sets a different time. The NCSLT entities' deadline to respond to the Second Amended
20 Complaint should be extended pursuant to Rule 12(a)(4)(A) alone.

21 Moreover, the Court's ruling on the pending motion to strike could necessitate the filing of
22 an amended complaint or may otherwise materially affect the allegations which require a

1 response. Compelling the NCSLT entities to respond now to the Second Amended Complaint
 2 raises the possibility that these defendants will have to file amended answers after the Court rules
 3 on the pending motion to strike, and proceeding on this schedule carries the risk of confusion and
 4 duplicative efforts. For the sake of efficiency and to avoid confusion, the NCSLT entities'
 5 deadline to file responsive pleadings should mirror the moving defendants' responsive pleadings
 6 deadline. The NCSLT entities therefore request that the Court exercise its discretion and extend
 7 the deadline for the NCSLT entities to file their response to the Second Amended
 8 Complaint. There is no prejudice to the Plaintiffs or other parties if the requested relief is granted,
 9 as the pleadings will not be closed until after the Court rules on the pending motion to strike, and
 10 then not until the defendants presently moving to strike the Second Amended Complaint answer
 11 or otherwise plead.

12 V. CONCLUSION

13 For the sake of efficiency and to avoid confusion, the NCSLT entities respectfully request
 14 that the deadline for filing responsive pleadings be extended until 14 days after notice of the
 15 Court's action on the pending motion to strike.

16 Dated this 14th day of September, 2020.

17 By s/ Stephen G. Skinner

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/s/ James K. Schultz

SESSIONS FISHMAN, NATHAN & ISRAEL
James K. Schultz (*pro hac vice*)

Attorneys for Defendants Attorneys for Defendants
Transworld Systems Incorporated, National Collegiate
Student Loan Trust Defendants, and National Collegiate
Master Student Loan Trust

NATIONAL COLLEGIATE STUDENT LOAN TRUST
DEFENDANTS' MOTION TO EXTEND DEADLINE TO
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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

By s/ Stephen G. Skinner

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Incorporated, National Collegiate Student Loan

Trust Defendants, and National Collegiate Master

Student Loan Trust